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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/603,812	06/2	26/2000	Michael Kraus	39732/DBP/E43 2076		
23363	7590	02/05/2003				
		& HALE, LLP	EXAMINER			
SUITE 500		BOULEVARD	EVANISKO, GEORGE ROBERT			
PASADENA, CA 91105				ART UNIT	PAPER NUMBER	
				3762	3762	
				DATE MAILED: 02/05/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

*		Application No.	Applicant(s)				
		09/603,812	KRAUS ET AL.				
	Office Action Summary	Examiner	Art Unit				
		George R Evanisko	3762				
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence address				
THE - External after of the control	MAILING DATE OF THIS COMMUNICATION. Instins of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. Experied for reply specified above is less than thirty (30) days, a reply of period for reply is specified above, the maximum statutory period of the computation of the com	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
1) 🖂	Responsive to communication(s) filed on 27 L	December 2002 .					
2a)⊠	·	is action is non-final.					
3)	Since this application is in condition for allower closed in accordance with the practice under	ance except for formal matters, pr	rosecution as to the merits is 153 O.G. 213.				
•	ion of Claims						
4)⊠	Claim(s) 1-8 and 10-12 is/are pending in the a						
	4a) Of the above claim(s) is/are withdraw	wn from consideration.					
5)							
	Claim(s) <u>1-4, 7, 8, 10-12</u> is/are rejected.						
	Claim(s) <u>5 and 6</u> is/are objected to.						
,	Claim(s) are subject to restriction and/o ion Papers	r election requirement.					
9)[]	The specification is objected to by the Examine	r.					
10)	The drawing(s) filed on is/are: a) ☐ accep	oted or b) objected to by the Exa	miner.				
,	Applicant may not request that any objection to the	e drawing(s) be held in abeyance. S	ee 37 CFR 1.85(a).				
11)	The proposed drawing correction filed on	_ is: a)☐ approved b)☐ disappro	oved by the Examiner.				
	If approved, corrected drawings are required in re	ply to this Office action.					
12)[The oath or declaration is objected to by the Ex	aminer.					
Priority	under 35 U.S.C. §§ 119 and 120						
13)	Acknowledgment is made of a claim for foreign	n priority under 35 U.S.C. § 119(a	ı)-(d) or (f).				
a)	☐ All b)☐ Some * c)☐ None of:						
	1. Certified copies of the priority document	s have been received.					
	2. Certified copies of the priority document	s have been received in Applicati	on No				
* ;	3. Copies of the certified copies of the prio application from the International Bu See the attached detailed Office action for a list	reau (PCT Rule 17.2(a)).					
14) 🔲 .	Acknowledgment is made of a claim for domesti	c priority under 35 U.S.C. § 119(e) (to a provisional application).				
	a) The translation of the foreign language pro Acknowledgment is made of a claim for domest						
Attachme							
2) Noti	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO-1449) Paper No(s) _	5) Notice of Informal	y (PTO-413) Paper No(s) Patent Application (PTO-152)				
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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, 8, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Weijand et al (5999857). Power supply (battery 66) is the energy storage means for the telemetry receiver and capacitors 12a and 12b are the energy storage means for the telemetry transmitter. Although the battery 66 may also supply power to the capacitors, the capacitors still meet the claimed limitation of an energy storage means that provides energy for transmission of data. In addition, it is noted that the claim is a "comprising" claim, an open ended claim, and the claim does not contain any negative limitations.

Claims 1, 2, 4, 7, 8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Barreras, Sr. et al (5735887). Barreras shows capacitor 73 being used to supply energy for the reception of data and capacitor, 105, supplying energy for the transmission of data. Although capacitor 105 may not power all the transmitter circuitry, it still is an energy storage means that provides energy for the transmission of data.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barreras, Sr. et al.

Barreras discloses the claimed invention except for the transmitter and receiver capacitors being different sizes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the telemetry device as taught by Barreras, with the use of the transmitter and receiver capacitors being of different sizes since it was known in the art that transmitter and receiver capacitors are used that are different sizes to provide the different power and control requirements of the transmitter and receiver and are coordinated with the respective transmitter and receiver to send data efficiently. In addition, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the telemetry device of Barreras with the use of different size transmitter and receiver capacitors, because

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Applicant has not disclosed that different size transmitter and receiver capacitors provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the telemetry and receiver capacitors as taught by Barreras because it efficiently provides a bidirectional telemetry device. Therefore, it would have been an obvious matter of design choice to modify Barreras to obtain the invention as specified in the claim(s).

Allowable Subject Matter

Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R Evanisko whose telephone number is 703 308-2612. The examiner can normally be reached on M-F 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703 308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are 703 306-4520 for regular communications and 703 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.

George R Evanisko Primary Examiner Art Unit 3762 2(3/1

GRE February 3, 2003